THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No: 6934 of 1999

DATED: 10.10.2007

Between:

Guvvala Narappa

… Petitioner

AND

The Govt., of A.P., rep., by its
Secretary, Revenue Department,
Secretariat Buildings, Saifabad,
Hyderabad and five others.

… Respondents

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ORDER:-

The petitioner seeks a writ of 'Certiorari' calling for the records relating to the order passed by the 1st respondent vide Memo No.4631/ASN.4(1)/98-3 dated 19.03.1999 and quash the same.

By the aforesaid memo, the Government confirmed the orders of the Special Government, Land Revenue, Hyderabad in proceedings No.BCW1/1672/94 dated 09.07.1997 wherein the Special Commissioner confirmed the orders of the Joint Collector, Anantapur dated 14.07.1994, whereby the Joint Collector, Anantapur confirmed the orders of the Revenue Divisional Officer, Anantapur dated 24.04.1988. All the four authorities have held that the petitioner is not entitled for assignment of the land to an extent of Ac.4-94 in Sy.No.327/5 situated at Palacherla Village, Rapthadu Mandal, Anantapur District and, therefore, the petitioner seeks to set aside the above four orders.

The facts that are gathered from the abovementioned orders go to show that the petitioner was assigned wetland of an extent of Ac.0.95 cents in Sy.No.307/1; and Ac.4.16 cents of dry land in Sy.No.23/3. The petitioner also got assigned Ac.4.52 cents of land in the name of his elder son- G.Mallesh in Sy.No.328/1. He again managed to get the land in question i.e., Ac.4.94 cents in Sy.No.327/5, which is in possession and cultivation of the 6th respondent and his

wife, in favour of his minor son G.Gopal, though he is not eligible for assignment. Thereafter, the Mandal Revenue Officer realizing his mistake cancelled the said assignment made in favour of the petitioner's minor son and reassigned the same in favour of the petitioner, which is the subject matter of the present writ petition, though he is not entitled for the said assignment as he already got assigned Ac.0.95 cents of wetland and an extent of Ac.4.52 cents in Sy.No.328/1 in the name of his elder son- G.Malleshu on 25.11.1985. The petitioner also got assigned Ac.4.16 cents of land in Sy.No.23/3, which he has mortgaged to Thopudurthi Finance Corporation and took loan of Rs.3500/-. Thus, having got total extent of land admeasuring Ac.8.70 cents in his and in his eldest son's name, the petitioner again managed to get assigned Ac.4.94 cents of land in Sy.No.327/5 on 29.07.1986.

A perusal of the record shows that the wife of the 6th respondent Smt. Bandi Narayanamma, who is a landless poor, also filed an application for assignment of land to an extent of Ac.4.94 cents in Sy.No.327/5 of Palacherla Village, but her application was rejected by the Mandal Revenue Officer by an endorsement in D.Dis.No.170/86/A1, dated 16.07.1986 and considered the application of the petitioner and assigned the said land in his favour vide proceedings D.A.R.Dis.No.3/96 dated 28.07.1986. Aggrieved by the said assignment, the wife of the 6th respondent filed an appeal before the Revenue Divisional Officer, Anantapur, and the Revenue Divisional Officer granted stay in respect of the said assignment made in favour of the petitioner by order dated 13.08.1986 and thereupon after hearing both the parties and perusing the entire record, dismissed the appeal by canceling the assignment granted in favour of the petitioner vide order dated 24.04.1988 and directed the Mandal Revenue Officer, Rapthadu to conduct proper enquiry and assign the

land to the eligible person.

It is further stated that the petitioner and his two sons are living together as joint family members and therefore petitioner is not entitled for separate assignment in his favour as he himself was having Ac.4.16 cents of dry land in Sy.No.23-3 and Ac.0-95 cents of wet land in Sy.No.307-1, his elder son was also assigned with Ac.4.52 in Sy.No.328-1 and besides these, the petitioner had unauthorisedly occupied Ac.4-00 in Sy.No.344-2B for which action was taken to evict him.

Insofar as the contention of the learned counsel for the petitioner that neither the appellate authority nor the revisional authority or even the Government considered any of the contentions raised by the petitioner, it is to be stated that the appellate and the revisional authorities have thoroughly considered the contentions of the petitioner and upheld the orders of the Revenue Divisional Officer in canceling the assignment made in his favour. In fact, a perusal of the order of the Government goes to show that neither the petitioner nor his counsel was present before it. Even according to the contention of the petitioner that notice was received by his counsel and written arguments were submitted and after hearing the parties, the impugned orders have been passed, it cannot be said that no reasonable opportunity was given. The petitioner having filed a revision, he himself was at lapse in not attending the revisional authority in spite of issuing several notices.

I am of the opinion that the attitude of the petitioner from the very beginning is not fair and by any means the petitioner is not entitled for assignment. Moreso, the petitioner has not made Smt. Bandi Narayanamma, who is the proper and necessary party, as a party to the writ petition as she is the wife of the 6th respondent. It is stated that in fact after enquiry the assignment was made in favour of the 6th

respondent's wife vide proceedings D.A.R.Dis.No.28/1407 dated 24.12.1997 and she was also granted pattadar passbook No.27421 in Khata No.692 on 24.12.1997 duly carrying out all the changes in the revenue records.

In view of the above, I do not see any infirmity, legal or otherwise and the writ petition is without any merits and is accordingly dismissed. No order as to costs.

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V.ESWARAIAH, J

Date: 10.10.2007.
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